



City of Ottawa

LRT Stage 2 Procurement Lessons Learned

Ref. RFP No. 32320-96258-P01

June 2021

kpmg.ca

Disclaimer

This report has been prepared by KPMG LLP (“KPMG”) for the City of Ottawa (“Client”) pursuant to the terms of our engagement agreement with Client dated 2020-09-17 (the “Engagement Agreement”). KPMG neither warrants nor represents that the information contained in this report is accurate, complete, sufficient or appropriate for use by any person or entity other than Client or for any purpose other than set out in the Engagement Agreement. This report may not be relied upon by any person or entity other than Client, and KPMG hereby expressly disclaims any and all responsibility or liability to any person or entity other than Client in connection with their use of this report.

Avis au lecteur

Le présent rapport, qui a été préparé par KPMG s.r.l./S.E.N.C.R.L. (« KPMG »), est destiné à l’usage de la Ville d’Ottawa (le « client »), conformément aux conditions du contrat de mission (le « contrat de mission ») daté du 17 septembre 2020 que nous avons conclu avec le client. KPMG ne garantit pas et ne déclare pas que les informations contenues dans le présent rapport sont exactes, complètes, suffisantes ou adéquates pour leur usage par toute personne ou entité autre que le client, ou pour toute autre fin que celle énoncée dans le contrat de mission. Toute personne ou entité autre que le client ne devra pas s’y appuyer, et KPMG décline expressément dans la présente toute responsabilité ou obligation à l’égard de toute personne ou entité autre que le client pouvant découler de l’usage du présent rapport.

Executive Summary

The O-Train is a light rail transit (“LRT”) system in Ottawa, operated by OC Transpo. The O-Train system is currently composed of the Confederation Line, which runs east to west, and the Trillium Line, which runs north to south. Due to the size of the envisioned system, the construction has been separated into multiple stages, with Stage 1 being commissioned in 2019 and Stage 2 currently under construction. Stage 2 is an extension to the existing Confederation (West and East) and Trillium (South) lines, including 44 km of rail and 24 new stations. The contract for the Trillium Line extension was awarded to “TransitNEXT” (solely owned by SNC-Lavalin).

As it looks to expanding the O-Train further with Stage 3, the City of Ottawa (“the City”) is taking steps to learn from and improve upon past procurement processes at the City and across Canada. The City has mandated KPMG with conducting a lessons-learned exercise on the LRT Stage 2 procurement. More specifically, the mandate includes the review and assessment of the recommendations provided by the Auditor General in its audit of the Stage 2 procurement¹, the review and presentation of best practices for future light rail or similar linear infrastructure procurements and the identification of potential procurement models and associated governance frameworks for Stage 3. This report focuses on the lessons-learned portion of the mandate, while a subsequent report will discuss recommendations for Stage 3. KPMG’s review comprises information obtained from various procurement documents, interviews with project stakeholders and industry peers, and benchmarking against comparable projects.² We have also considered the leading practices outlined in Justice Bellamy’s Inquiry around external contracts recommendations and Associate Chief Justice Frank N. Marrocco’s Report of the Collingwood Judicial Inquiry.^{3, 4}

In his report, the Auditor General concludes that “[the] procurement of the Stage 2 Trillium Line was undertaken in such a way that it was compliant with the process described in the RFP documents which were provided directly to the bidders”. Indeed, there are no doubts raised around the fact that the City followed the procurement process rigorously, that the process itself was adequate and that the procurement successfully attained its goal, which was the conclusion of an agreement for the design, construction, finance and maintenance of Stage 2 – a complex undertaking. Moreover, the fairness commissioner confirmed compliance with the fairness requirements of the RFP process and that the selection process followed the process outlined in the RFP document.

Although this review has identified areas of improvement for future major infrastructure projects, Stage 2’s procurement process was, to the extent of our review, generally aligned with industry

¹ The report titled “Audit of Stage 2 Light Rail Transit (LRT) Project Procurement” (ACS2019-OAG-BVG-0011) examined the established procurement process and its adherence to the stated process, and ensured it was conducted in accordance with the principles of fairness, openness, and transparency.

² See Appendix B for the list of interviews

³ Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005)

⁴ Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry (2020)

leading practices. Indeed, the areas of improvement identified mostly aim at fine-tuning the activities supporting the procurement rather than the procurement itself.

“The Procurement generally aligned with industry leading practices”

Areas of Improvement – At a Glance

While the level of involvement of Council in the procurement process was aligned with industry leading practices, Justice Bellamy’s Inquiry around external contracts recommendations and Associate Chief Justice Frank N. Marrocco’s Report of the Collingwood Inquiry, the City could consider including regular project updates as part of the delegation of authority to inform Council on the procurement and project progress. Although these reports would not increase the Council’s involvement in the procurement process, it would support greater understanding of the advancement, timelines and next steps. Another related key area of improvement the City could consider is additional pre-procurement engagement with Council to provide Public-Private Partnership (“P3”) procurement training to Council as required to help ensure comprehension of the process and rationale behind decisions, including variation in budget and adjustments in scope.

The City could consider prioritizing the selection of technical evaluators with a combination of relevant technical and P3 experience. Otherwise, targeted training should be provided and the inclusion of an evaluation facilitator with extensive P3 and major projects experience could be considered, as was the case in Stage 2’s procurement. Another recommendation related to the evaluators is that the training and supporting documentation provided to the evaluators should be specific about the submission requirements and evaluation criteria, which would clarify boundaries between scores and relevant considerations based on the project’s objectives.

Although the evaluation approach selected by the City was based on Infrastructure Ontario’s template and thus consistent with approaches used in similar projects, the City should analyze the optimal evaluation approach and technical/financial weightings for the project being procured to help ensure alignment between the evaluation framework and the overall project objectives. A procurement disclosure schedule for the RFQ, redacted RFP main body and redacted Project Agreement should also be developed before the market launch of the procurement to inform stakeholders and the public about the procurement documents disclosure timeline. The disclosure deadlines should typically occur after the conclusion of the procurement process to protect the fairness and competitiveness of the process. Finally, as recommended by the Auditor General, the City should include clear reporting lines to escalate issues internally with a designated person responsible for taking action if and when required.

Although the areas of improvement identified would not result in a future procurement that is substantially different than the procurement of Stage 2, the recommendations aim to optimize the procurement process.

Sommaire Exécutif

L'O-Train est un service de train léger sur rail ("TLR") à Ottawa qui est opéré par OC Transpo. L'O-Train est actuellement composé de la Ligne de la Confédération, orientée d'est en ouest, ainsi que la Ligne Trillium, se déployant du sud au nord. Considérant la taille du réseau envisagé, la construction a été séparée en différentes étapes : l'Étape 1 a été mise en service en 2019 et l'Étape 2 est actuellement en construction. L'Étape 2 est une prolongation des lignes Confédération (est-ouest) et Trillium (sud-nord) existantes, incluant un total de 44km de voies ferrées et 24 nouvelles stations. Le contrat pour la prolongation de la ligne Trillium a été attribué à « TransitNEXT » (propriété exclusive de SNC-Lavalin).

En vue d'un prolongement supplémentaire de l'O-Train avec l'Étape 3, la Ville d'Ottawa (« la Ville ») a entrepris des initiatives pour tirer des leçons des processus d'approvisionnement antérieurs de la Ville et ailleurs au Canada. La Ville a confié à KPMG le mandat de conduire un exercice consacré aux leçons apprises pour l'approvisionnement de l'Étape 2 du TLR. Plus précisément, le mandat inclus la revue et l'évaluation des recommandations formulées par le vérificateur général dans son audit de l'approvisionnement de l'Étape 2⁵, la revue et la présentation des meilleures pratiques pour de futurs approvisionnements de projets de TLR ou d'infrastructures linéaires similaires, ainsi que l'identification des modèles d'approvisionnement potentiels et les modèles de gouvernance associés pour l'Étape 3. Le présent rapport se concentre sur la portion du mandat concernant les leçons apprises, tandis qu'un rapport subséquent étudiera les recommandations pour l'Étape 3. La revue réalisée par KPMG comprend de l'information provenant de divers documents d'approvisionnement, d'entrevues réalisées avec les parties prenantes du projet et des pairs de l'industrie, ainsi que d'un balisage de projets comparables⁶. Nous avons également considéré les bonnes pratiques identifiées dans l'enquête du juge Bellamy sur les recommandations liées aux contrats externes ainsi que le rapport du juge en chef adjoint Frank N. Marroco sur l'enquête judiciaire Collingwood^{7, 8}.

Dans son rapport, le vérificateur général conclut que « l'approvisionnement de l'Étape 2 de la Ligne Trillium a été réalisé en conformité avec le processus décrit dans les documents d'appel de propositions qui ont été fournis aux soumissionnaires »⁹. En effet, il n'y a aucun doute que la Ville a suivi le processus d'approvisionnement de manière rigoureuse, que le processus était approprié et que l'approvisionnement a atteint son objectif, soit la tâche complexe de conclure une entente pour la conception, la construction, le financement et l'entretien de l'Étape 2. De plus, le Commissaire à l'équité a confirmé que le processus suivi l'a été en conformité avec les

⁵ Le rapport intitulé "Audit of Stage 2 Light Rail Transit (LRT) Project Procurement" (ACS2019-OAG-BVG-0011) a examiné le processus d'approvisionnement ainsi que le respect du processus prescrit, et a vérifié que l'approvisionnement a été réalisé en conformité avec les principes d'équité, d'ouverture et de transparence.

⁶ Voir l'annexe B pour la liste des entrevues réalisées

⁷ Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005)

⁸ Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry (2020)

⁹ Traduction par KPMG

exigences d'équité du processus d'approvisionnement et que le processus de sélection a suivi la procédure indiquée aux documents d'appel de proposition.

“L’approvisionnement était généralement aligné avec les bonnes pratiques de l’industrie”

Bien que la présente revue ait identifié des opportunités d'amélioration pour de futurs projets majeurs d'infrastructure, le processus d'approvisionnement de l'Étape 2 était, dans la mesure de la portée de notre revue, généralement aligné avec les bonnes pratiques de l'industrie. Effectivement, les opportunités d'amélioration identifiées visent principalement à mettre au point les activités de support à l'approvisionnement plutôt que le processus d'approvisionnement lui-même.

Aperçu des opportunités d'amélioration

Bien que le niveau d'implication du Conseil dans l'approvisionnement était aligné avec les bonnes pratiques de l'industrie, avec l'enquête du juge Bellamy sur les recommandations liées aux contrats externes ainsi qu'avec le rapport du juge en chef adjoint Frank N. Marroco sur l'enquête judiciaire Collingwood, la Ville pourrait considérer d'inclure des mises à jour périodiques au sein de la politique de délégation de pouvoirs pour informer le Conseil sur le progrès de l'approvisionnement et du projet. Bien que ces rapports n'augmenteraient pas l'implication du Conseil au sein du processus d'approvisionnement, ceux-ci contribueraient à une compréhension améliorée du progrès, de l'échéancier et des prochaines étapes. Une autre opportunité d'amélioration pouvant être considérée par la Ville est l'engagement additionnel de l'équipe de projet avec le Conseil avant l'approvisionnement pour fournir de la formation sur les Partenariats Public-Privé (« PPP »), lorsque requise, afin d'assurer une compréhension commune du processus et des raisons sous-jacentes aux décisions, incluant toute variation au budget ou tout ajustement à la portée du projet.

La Ville pourrait envisager de prioriser la sélection d'évaluateurs techniques possédant une combinaison d'expérience technique pertinente et d'expérience en PPP. Sinon, une formation ciblée devrait être offerte et l'inclusion d'un facilitateur d'évaluation ayant une vaste expérience des PPP et des grands projets pourrait être envisagée, comme ce fut le cas pour l'approvisionnement de l'Étape 2. Une autre recommandation relative aux évaluateurs concerne la formation et la documentation de soutien fournies à ces derniers, lesquelles devraient être spécifiques aux exigences de soumission et aux critères d'évaluation, ce qui permettrait de clarifier les limites entre les résultats et les considérations pertinentes basées sur les objectifs du projet.

Bien que l'approche d'évaluation choisie par la Ville soit fondée sur le modèle d'Infrastructure Ontario et, par conséquent, conforme aux approches utilisées dans des projets similaires, la Ville devrait analyser l'approche d'évaluation optimale et les pondérations techniques/financières pour le projet faisant l'objet de l'approvisionnement afin d'assurer l'alignement du cadre d'évaluation avec les objectifs généraux de celui-ci. Un calendrier de divulgation de l'appel de qualification, de l'appel de propositions et de l'accord de projet devrait également être élaboré avant le lancement de l'appel de propositions, afin d'informer les parties prenantes et le public du calendrier de divulgation des documents d'approvisionnement. Les dates limites de divulgation devraient généralement être fixées après la conclusion du processus d'approvisionnement afin de protéger l'équité et la compétitivité du processus. Enfin, comme l'a recommandé le vérificateur général, la Ville devrait prévoir des lignes hiérarchiques claires

permettant de gérer les problèmes à l'interne auprès d'une personne en mesure de déterminer si des mesures doivent être prises et quand, le cas échéant.

Bien que les opportunités d'amélioration identifiées ne donneraient pas lieu à un processus d'approvisionnement futur sensiblement différent de celui de l'Étape 2, les recommandations visent à optimiser le processus d'approvisionnement.

Table of contents

1.	Context	1
2.	Mandate and Methodology	3
3.	Summary of the Procurement Process	5
4.	Lessons Learned	9
4.1	Publication of RFP documents to the public	9
4.2	Selection of evaluators	11
4.3	Evaluators' training	12
4.4	Delegation of Authority reporting requirements	13
4.5	Fairness	15
4.6	Technical evaluation thresholds	15
4.7	Pre-procurement engagement with Council	16

Appendix A – List of documents consulted

Appendix B – List of interviews and sample questions

Appendix C – Summary of project benchmarking

Appendix D - Associate Chief Justice Frank N. Marrocco's Report of the Collingwood Judicial Inquiry (2020), recommendations 161, 163 and 164

Appendix E – Justice Bellamy's Report on the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005) 129-132, 136-138 and 226

Appendix F – Glossary

1. Context

The O-Train is a light rail transit (“LRT”) system in Ottawa, operated by OC Transpo. The O-Train system is currently composed of the Confederation Line, which runs east to west, and the Trillium Line, which runs north to south. Due to the size of the envisioned system, the construction has been separated into multiple stages.

Stage 1 of the O-Train system included the construction of the first 13 stations of the Confederation Line. The project was awarded to Rideau Transit Group (composed of ACS Infrastructure, Dragados, Ellis Don, and SNC Lavalin), achieved substantial completion on July 27, 2019, and began service in September 2019.

Stage 2 of the O-Train system is an extension to the existing Confederation (West and East) and Trillium (South) lines, including 44 km of rail and 24 new stations. The figure below illustrates the existing Confederation and Trillium lines, as well as the extensions included in Stage 2.



Figure 1 : Stage 1 and 2 O-Train lines

The Stage 2 contracts were awarded to “TransitNEXT” (solely owned by SNC-Lavalin) for the Trillium Line extension and to “East West Connectors” (partnership between VINCI Group and Kiewit) for the Confederation Line extension. Contract award was approved by the Ottawa City Council on March 6, 2019, and all Stage 2 work is expected to be completed in 2025.

The City of Ottawa (“the City”) has come under scrutiny for the performance of the Stage 1 LRT and the Stage 2 Trillium Line procurement, in particular related to the technical evaluation scoring. While procurement processes aim to be confidential, it was publicly reported in March 2019 that the winning proponent, TransitNEXT, did not meet the technical evaluation threshold set forth in the procurement documents. It was ultimately demonstrated that the procurement

process allowed for the use of a discretionary clause to move a proponent that did not meet the technical evaluation threshold to the financial evaluation stage, and that the use of this discretionary clause was supported by legal opinion to help ensure the fairness of the process was maintained.

The City of Ottawa's Auditor General reviewed the Stage 2 Trillium Line extension procurement, with a specific focus on the procurement process and the Delegation of Authority. This audit concluded that "[the] procurement of the Stage 2 Trillium Line was undertaken in such a way that it was compliant with the process described in the RFP documents which were provided directly to the bidders"¹⁰. Indeed, there are no doubts raised around the fact that the City followed the procurement process rigorously, that the process itself was adequate and that the procurement successfully attained its goal, which was the conclusion of an agreement for the design, construction, finance and maintenance of Stage 2 – a complex undertaking. Moreover, the fairness commissioner confirmed compliance with the fairness requirements of the RFP process and that the selection process followed the process outlined in the RFP document. The Auditor General's audit nonetheless identified recommendations for future projects, concerning the following areas:

- 1) Publication of RFP documents to the public
- 2) Selection of technical evaluators
- 3) Level, scope and nature of training provided to evaluators
- 4) Phasing of bid compliance review
- 5) Delegation of Authority reporting requirements
- 6) Reporting mechanism for perceived or real wrongdoing, fraud or waste during the procurement process

The City is currently preparing the procurement of Stage 3 of the O-Train, including undertaking the Environmental Assessment, preliminary engineering and costing of the project, which will allow the subsequent preparation of a project proposal for consideration by the Province of Ontario and the Government of Canada. In order to successfully expand the O-Train in Stage 3, the City is taking steps to help ensure it continues to have a transparent and fair procurement process, and any procurement process is also perceived to be transparent and fair by the market. The City is looking to learn from its past experiences, aiming to lead the way in governance, procurement and performance in the context of an expanding LRT network, and building upon the recommendations of the Auditor General's report.

¹⁰ Report ACS2019-OAG-BGV-011 (Audit of Stage 2 Light Rail Transit (LRT) Project Procurement)

2. Mandate and Methodology

KPMG has been mandated by the City to conduct a lessons-learned exercise on the LRT Stage 2 procurement. More specifically, the work executed includes the “[review and assessment of] the recommendations provided by the Auditor General in the report titled, “Audit of Stage 2 Light Rail Transit (LRT) Project Procurement” (ACS2019-OAG-BVG-0011) against best practices in other jurisdictions in order to provide background information and make recommendations [...]”.¹¹ KPMG’s mandate also includes the “[review and presentation of] best practices for future light rail or similar linear infrastructure procurements including in order to achieve Transparency, Integrity, Value for Money, Openness, Fairness, Competition and Accountability” and the proposition of procurement models and governance frameworks for Stage 3. This report focuses on the lessons learned scope of the mandate, whilst a subsequent report will discuss recommendations for Stage 3.

The approach used for the realization of this mandate includes the following steps:

1. Project kickoff meeting with the City’s team

A kickoff meeting was held between KPMG and the City to introduce members of the project team, establish main communication channels and communicate expectations around this mandate.

2. Stage 2 LRT procurement document collection and review

Key documents were identified and reviewed to develop a solid understanding of the procurement process, as well as its execution.¹² These documents were further used to identify preliminary improvement opportunities and key project stakeholders, as well as develop a list of questions and discussion points for the subsequent interviews.

3. Interviews with key project procurement stakeholders

An interview was held with the Evaluation Manager to identify key project stakeholders to interview for information gathering purposes.¹³ A total of four (4) meetings were subsequently held by videoconference from October 26 to 30, 2020, each lasting approximately 90 minutes, with members of the Bid Evaluation Steering Committee. These meetings aimed at understanding the different decisions and processes involved in the procurement process, as well as collecting recommended improvements for future procurements from the members of the project’s Bid Evaluation Steering Committee. Further to these meetings, three (3) City councillors and two (2) City staff expressed the desire to meet the KPMG team to share their commentary and any perceived lesson learned from the Stage 2 procurement project.

¹¹ March 9 2020 report to the Finance and Economic Development Committee, File Number ACS2020-CMR-OCM-0002

¹² See appendix A for the full list of documents consulted

¹³ See appendix B for the list of interviews

4. Procurement benchmarking with comparable projects

In order to identify industry best practices and develop recommendations for improvement, a benchmarking exercise was conducted with other major public-private partnerships (“**P3**”) in Canada. In collaboration with the City’s representative, a long list of potential projects was narrowed to five (5) projects using different criteria, namely the size, complexity and nature of the P3 projects, and three (3) project owners agreed to participate in the present study. These projects were reviewed on the basis of the different recommendations identified by the Auditor General’s report, and the findings from our interviews with the project team, namely the governance structure (including reporting to Council and Delegation of Authority), publication of procurement documents, the technical evaluation process, and the selection and training of evaluators.

3. Summary of the Procurement Process

Stage 2 of the O-Train system was first introduced as a component of the City's Transportation Master Plan approved by Council on November 26, 2013, aiming to extend the Confederation line (Stage 1), and the existing Trillium Line. The report detailing the project definition and procurement plan was submitted to Council and to the Finance and Economic Development Committee in February 2017, and subsequently approved in March 2017. This report explains how Stage 2's procurement aimed at "[maintaining] the advantages, risk transfer accountability for performance achieved in the first procurement and [ensuring] a well-participated, fair and demanding procurement to produce excellent pricing and value".¹⁴ With this in mind, it was recommended that the Trillium Line Extension use a Design, Build, Finance, Maintain ("**DBFM**") approach to address the ongoing challenges the City was facing in regard to the service of the existing civil infrastructure and rolling stock using traditional service providers. In contrast, it was recommended that the Confederation Line Extension used a Design, Build, Finance ("**DBF**") model as Rideau Transit Group was already responsible for the maintenance of the existing Confederation Line through Stage 1's scope of work. This February 2017 report also describes the recommended Delegation of Authority, where it is advised that the City "Delegate the authority to the Ottawa Light Rail Transit ("**OLRT**") Executive Steering Committee to confirm and recommend to Council the Preferred Proponent(s) at the close of the Request for Proposals and to, at the discretion of the City Manager, be the decision-making and escalation authority with respect to contract and construction matters".

Following Council approval of the procurement plan, a Request for Qualifications ("**RFQ**") for the Trillium Line Extension project was released on April 7, 2017 to qualify a maximum of three (3) proponents to participate in the subsequent Request for Proposals ("**RFP**"). Five (5) submissions were received on June 20, 2017 by the following consortiums:

- Skyline Transit Group (ACS Infrastructure, EllisDon, TIAA Infrastructure, Dragados, Hatch, IBI Group, Rail Term)
- Trillium Link (Acciona, Fengate, CAF, CIMA+, Momentum, Thomas Cavanagh, Cobalt Architects, GRC Architects)
- TransitNEXT (SNC Lavalin)
- Trillium Extension Alliance (Plenary, Colas, R.W. Tomlinson, Plan Group, WSP Bird Construction, Mass Electric)
- Capital Link Partners (Sacyr, Amber, Cruickshank, TYP SA, Canarail, Associated Engineering)

The RFQ submission evaluation process planned for a first substantial completeness review to help ensure that the required information and forms had been substantially provided. Having passed substantial completeness review, the submissions were then separately evaluated for

¹⁴ March 8, 2017 report to the Finance and Economic Development Committee and Council, File Number ACS2017-TSD-OTP-0001

the technical and financial components to score the submissions according to the evaluation criteria identified in the RFQ document. The Technical Evaluation Team was composed of five (5) evaluators, and the Financial Evaluation Team composed of four (4) other evaluators. These evaluation teams were supported by six (6) subject matter experts as necessary.

Submissions had to meet a minimum threshold of 60% for both the technical and financial components, although the financial evaluation was on a pass/fail basis only; therefore, only the technical evaluation went towards the ranking of submissions. The Executive Steering Committee could determine whether a submission could continue to be considered in the RFQ process should it fail to meet this threshold. The fairness commissioner, to the extent of his involvement in the RFQ process, certified that the principles of openness, fairness, consistency and transparency had been maintained throughout the RFQ process.

The RFQ ultimately qualified three (3) proponents to move to the RFP stage:

- Trillium Link
- TransitNEXT
- Trillium Extension Alliance

The City then issued the RFP on July 17, 2017 to select a Preferred Proponent to realize Stage 2 of the extension project. A number of Commercially Confidential Meetings were held with the proponents to discuss the proposed project agreement, project design, and any other matters that needed to be addressed before bid submission. The in-market phase of the RFP ended on September 21, 2018 with all three proponents submitting a bid for the Stage 2 Trillium Extension project.

Each bid comprised three parts: (1) General Submission, (2) Technical Submission and (3) Financial Submission. Figure 2 illustrates the reporting structure for the RFP evaluation process.

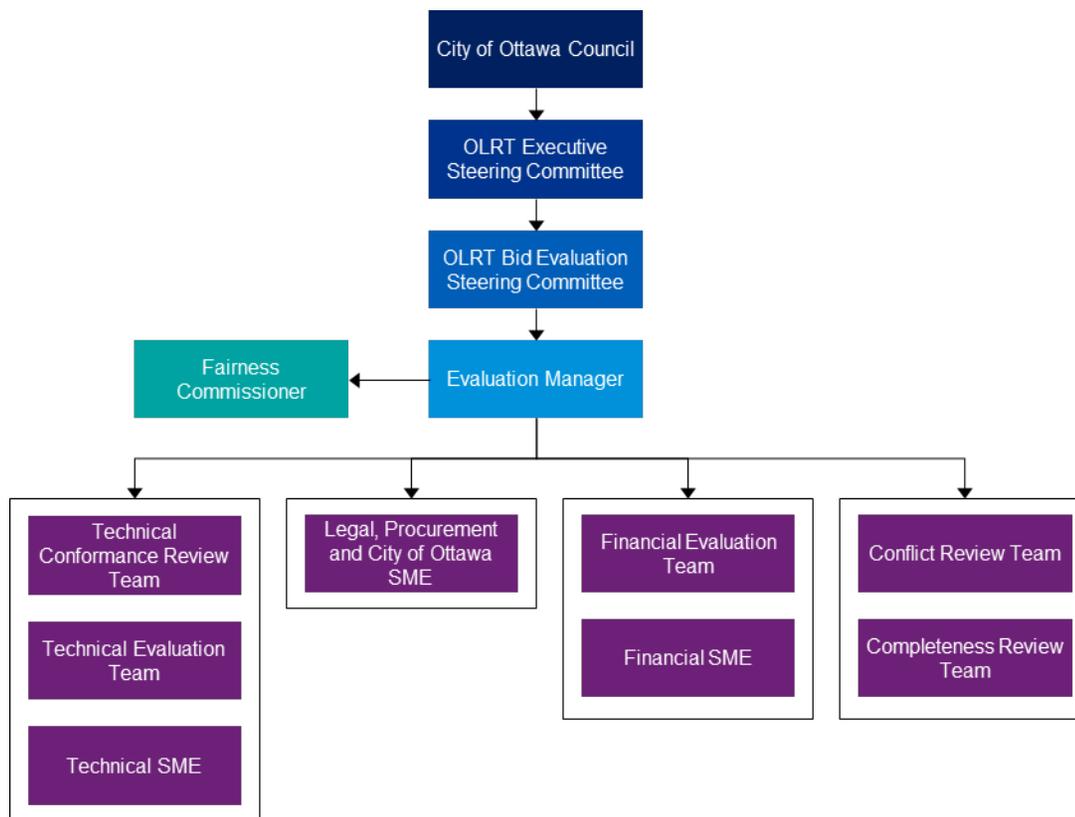


Figure 2 : RFP reporting structure

The evaluation process was conducted in four steps as per the RFP document.

1. Completeness Review – Bids went through a substantial completeness review to help ensure that the required information and forms had been substantially completed as per the RFP requirements. All bids were ultimately considered substantially complete and allowed to proceed to the next stage.

2. Technical Review and Scoring – Firstly, a Technical Conformance Review Team, composed of 74 internal and external subject matter experts, performed a technical compliance review to help ensure the bids complied with the terms and conditions of the RFP documents. The RFP Evaluation Framework indicated that if “a Proponent’s design is conformant, which will be vetted by the OLRT Bid Evaluation Steering Committee, a Proponent has attained a presumptive design score of 70%. The Technical Evaluation Team may nonetheless assess a score of more or less than 70% at its discretion”. Although all three technical submissions contained non-conformances, none contained a material deviation that would result in a submission being determined as non-compliant; therefore, all three bids moved on to the second step of the technical evaluation.

The Technical Evaluation Team, composed of five (5) members (two (2) of which were also part of the initial RFQ Technical Evaluation Team), performed a technical evaluation. The RFP indicated that the bids needed to achieve a minimum score of at least 70% in various categories

of the technical evaluation. (Failure to achieve this score could, in the Sponsor's sole discretion, prevent a bid from further consideration.)

The Technical Evaluation resulted in two bids surpassing the 70% threshold and one bid falling short of the 70% threshold. The Technical Evaluation Team presented their results to the Bid Evaluation Steering Committee. The Bid Evaluation Steering Committee, as intended in the evaluation framework, provided comments and guidance on the evaluation approach and asked the Technical Evaluation team to reconvene in light of these comments. More specifically, the comments were around the apparent use of evaluation criteria by the evaluators that were not mentioned in the RFP. After a second evaluation of the bids, the scores changed slightly, and one of the proponents still did not meet the 70% score threshold. After seeking legal opinion from counsel, the Bid Evaluation Steering Committee made a recommendation to the OLRT Executive Steering Committee to allow the proponent in question to continue in the competition since (i) the scores were close to the threshold, (ii) the proponent was selected through a rigorous RFQ process, and (iii) the proposal was absent of any material deviation. This recommendation was ultimately followed and the proposal that had failed to meet the minimum technical score threshold moved forward to the next step of the evaluation.

3. Financial Evaluation – The RFP outlined the Capital Cost Affordability Criteria (i.e., a maximum total construction cost), as well as an Aggregate Cost Affordability Criteria (i.e., a maximum total cost, including during the maintenance period). A bid failing to meet one of these affordability criteria would be deemed unaffordable, and would therefore receive a score of zero (0) for the price proposal component of the financial evaluation. In the event that all proposals were deemed unaffordable, that only one of the proposals was affordable or that the Preferred Proponent failed to achieve financial close, the Bid Evaluation Steering Committee could determine whether it was appropriate to award a score of zero (0) to the unaffordable proposals or whether these proposals should be scored according to a pre-determined formula.¹⁵ After the review of the financial bids, two of the three proposals were deemed unaffordable. In order to rank the bids and establish a Second Negotiations Proponent, the Bid Evaluation Steering Committee advised the use of the formula to allow for scoring of all the proposals, as per the process that was planned in the RFP.¹⁶

4. Ranking – Both technical and financial bids were worth 500 points each out of a total of 1000 points. However, the formula used to score the financial bids was heavily weighted to favour the lowest financial bid, and – overall – the financial scoring formula resulted in more weight being placed on the financial score rather than on technical score. At the conclusion of the final ranking of bids, TransitNEXT was chosen as the First Negotiations Proponent. The negotiations enabled the proponent to address any outstanding issues with its proposal to the satisfaction of the procurement team and ensured there was an alternate proponent to negotiate with if an agreement could not be reached with the First Negotiations Proponent.

The fairness commissioner confirmed compliance with the fairness requirements of the RFP process and that the selection process followed the process outlined in the RFP document.

¹⁵ The pre-determined formula awarded the maximum score to the lowest bid, and deducted points to more expensive bids proportionally to the difference in price.

¹⁶ Second Negotiations Proponent was selected to engage in negotiations in the event that no agreement could be reached with the First Negotiations Proponent.

4. Lessons Learned

The lessons-learned analysis aims to identify relevant findings that are implementable and align with the City's key public procurement principals, namely Transparency, Integrity, Value for Money, Openness, Fairness, Competition and Accountability. In accordance with the Council-approved mandate, the work executed includes the "[review and assessment of] the recommendations provided by the Auditor General in the report titled, "Audit of Stage 2 Light Rail Transit (LRT) Project Procurement" (ACS2019-OAG-BVG-0011) against best practices in other jurisdictions in order to provide background information and make recommendations [...]".¹⁷ More specifically, the analysis focuses on the following items:

- The publication of RFP documents to the public
- The selection of bid evaluators
- The level, scope and nature of training provided to the bid evaluators
- The bid compliance assurance process
- The Delegation of Authority reporting requirements
- The processes in place to support fairness of the procurement process

In addition to these areas of improvement, this review identified further lessons learned that could be considered in future procurements, namely:

- The use of technical thresholds in the evaluation of the proposals
- Engagement with Council prior to the market launch of the procurement

The reader should note that due to their similarities, the lessons learned around the bid compliance assurance process and the technical evaluation approach have been merged.

4.1 Publication of RFP documents to the public

The publication of procurement documents and project agreements is a key component of publicly owned project procurements to help ensure transparency of the process. In the case of Stage 2, although the RFQ was publicly available on MERX, the RFP was only made available to the qualified proponents and the project agreement was not initially made public. Both documents have since been made available publicly following direction from Council on February 12, 2020.

The project benchmarking demonstrated that although practices vary by jurisdiction, it is a leading practice to make these documents available to some extent after the project agreement

¹⁷ March 9 2020 report to the Finance and Economic Development Committee, File Number ACS2020-CMR-OCM-0002

has been executed. Indeed, during our interviews, Infrastructure BC¹⁸ indicated that it aims at making the redacted RFP and project agreement available publicly at most 90 days after the contract's effective date. This timing to release documents allows for transparency, while also giving the Owner time to redact commercially sensitive information from the RFP and the project agreement, as required. Similarly, the City of Edmonton outlined the public disclosure milestones for various documents in its Accountability, Transparency, and Disclosure Framework. This framework notably indicates that the redacted version of the main body of an RFP is to be made available within 30 days of the date of issuance of the RFP, and the redacted project agreement within 60 days of financial close.¹⁹ Infrastructure Ontario also indicated during our interview with them that it has adopted the practice of releasing the RFQ and redacted versions of the RFP and project agreement after the conclusion of the procurement.

In alignment with the Auditor General's recommendations, the City of Ottawa could consider making a redacted version of the procurement documents publicly available. However, in order to align with leading practices observed in comparable projects, the documents should be made publicly available only after the signature of the project agreement. Published documents usually include the:

- RFQ (typically released publicly, or at a minimum to those who have signed a confidentiality agreement);
- Redacted RFP; and
- Redacted project agreement

It is important to note that these documents are not usually made available during the procurement process itself to protect the fairness and competitiveness of the process, and also to avoid having to release multiple versions of the same documents. As the procurement process is effectively a form of negotiation before a final conformed version is used for the technical submissions, the documents are not in final form until the project agreement is signed. Releasing the RFP and project agreement during the procurement is likely to cause confusion among stakeholders. Although organizations do not commit to a fixed point in time at which these documents will be released, organizations usually include an approximate length of time after the contract is executed to release the documents.

Recommendation: Develop a procurement disclosure schedule for the RFQ, redacted RFP main body and redacted project agreement. Certain schedules containing sensitive information may be removed entirely, as required. The disclosure deadlines should occur after the conclusion of the procurement process to protect the fairness and competitiveness of the process.

¹⁸ Formerly known as Partnerships BC

¹⁹ Report CR_6679, Attachment 4

4.2 Selection of evaluators

Due to their direct role in the selection of a Preferred Proponent, the selection of evaluators is a key step of a successful procurement. In the case of Stage 2, evaluators were selected based on their role in the development of the project-specific output specifications and their level of expertise in the area of the procurement. Although the Auditor General is clear that the evaluators had relevant operational experience, which otherwise included the design, build, and commissioning of P3 systems including but not limited to the Stage 1 Confederation Line, the majority of evaluators had limited or no prior experience with the procurement evaluation of P3 projects. Despite this limited experience across the four separate Stage 2 evaluations, including the two Request for Qualification submittal reviews and the two Request for Proposal submittal reviews, evaluation concerns were only raised with one of the fourteen (14) submissions (either by the evaluators, or in relation to the evaluators in general).

The project benchmarking demonstrated that there does not seem to be a specific evaluator selection framework used by leading infrastructure owners, and that Stage 2's selection of evaluators did not substantially deviate from leading practices in this regard. Indeed, none of the project owners met indicated having a set approach or policy to selecting evaluators for P3 projects. However, a balance of technical expertise and P3 procurement experience is typically sought out in the selection of the evaluators. These evaluators are usually involved in the development of the project-specific output specifications. This involvement is seen by some owners as an advantage, as they fully understand the intent of the requirements, and is consistent with the City's approach.

It should also be noted that P3 procurement experience can be more easily transferred to potential evaluators than technical expertise. One consideration shared by Infrastructure BC during our interviews that the City may wish to implement is to involve more people than necessary in the evaluation process so that many resources develop experience in P3 procurements and can act as potential experienced evaluators for future procurements.

In alignment with leading practices, the City could consider prioritizing resources with both relevant technical experience (i.e. light rail) and P3 procurement experience, if available, in the selection of its evaluators. A key consideration for the selection of these resources is their availability since it can be a challenge to have experienced evaluators available for the full duration of the evaluations, which typically span over a couple of very intensive weeks. Moreover, to help ensure an adequate pool of available resources to call upon as evaluators, the City could consider using P3 procurements as opportunities for training future evaluators by involving them in the process. In the event where the City does not have access to enough technical evaluators with relevant technical and light rail P3 experience, targeted training should be provided to help ensure the evaluators have an adequate understanding of a P3-specific evaluation process. This is in addition to the evaluator training that should occur regardless of previous experience. The City could also consider continuing to include someone external to the evaluation team with extensive expertise in procurement evaluation to help facilitate the process and mitigate the potential lack of experience of some evaluators in evaluating P3 proposals. This external support was provided by the City's legal and procurement advisors for Stage 2. Using a resource external to the evaluation team provides a neutral moderator for the evaluations while ensuring alignment of the evaluations with the evaluation framework.

Recommendation: Prioritize the selection of technical evaluators with a combination of relevant technical (i.e., light rail) and P3 experience. If it is not possible to select evaluators with the appropriate combination of technical and P3 expertise, targeted training should be provided and the inclusion of an evaluation facilitator with extensive P3 and major projects experience could be considered.

4.3 Evaluators' training

Training of the members of the evaluation teams is a crucial and standard step in the preparation of any P3 procurement. It was also identified as a key process in Justice Bellamy's inquiry regarding external contracts²⁰. In the case of Stage 2, training was provided to all members of the evaluation teams, covering the following topics²¹:

- Evaluation framework
- Key procurement documents
- Role of participants
- Participants agreement
- Evaluation and scoring criteria
- Considerations and best practices for scoring consensus
- Evaluation and scoring conflicts
- Communication restrictions
- Documentation management

The scope of the training identified above was generally aligned with procurement leading practices. However, all members of the Bid Evaluation Steering Committee we interviewed agreed that although the scope of the training was the same as in other P3 procurements, the limited experience in P3 procurements of the evaluators may have warranted additional training. Indeed, the majority of the comments issued by the Bid Evaluation Steering Committee after the first technical consensus referred to the apparent use of “undisclosed evaluation criteria”, meaning criteria used by the evaluators which were not specific requirements of the RFP.²² As part of minimizing the possibility of creating a situation with undisclosed evaluation criteria, it is important to help ensure that any training provided is fully aligned with the criteria in the RFP.

In future procurements, the City may wish to provide more specific training around the submission requirements and evaluation criteria, reflecting the history and experience of the selected evaluators. In addition to the general training, more specific training should be tailored to each group involved in the evaluation process. For instance, the Technical Evaluators could receive specific training regarding their role, as well as guidance on the interpretation and

²⁰ Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005) recommendations 136-138

²¹ OLRT Evaluation

²² Bid Evaluation Steering Committee Written Direction to Technical Evaluation Team

application of the evaluation criteria, whereas Financial Evaluators would receive a different training more adapted to the financial evaluation grids and requirements.

In addition, the City may wish to be more specific in how the technical requirements of the RFP are linked to the technical scores that will be given to proposals to help ensure clarity for both the proponents and for the evaluators. There should be specific guidance given to evaluators to help them be consistent and fair across their evaluations and this guidance needs to be perfectly aligned with the RFP documents. Examples of guidance to be provided include what determines a good bid versus an excellent bid at a high level, as well as a clear expectation of what the proposals should include/cover. Notably, Infrastructure Ontario indicated during our interview that it provides evaluators with guidelines about what to look for in bids to help consistency of evaluation and alignment with the RFP requirements.

In our experience with hundreds of procurements, KPMG considers it generally best practice to include a guidance manual relating to scoring. Such guidelines should be aligned with the project's objectives and ultimately allow for enhanced consistency between evaluations as boundaries between scores are easier to define.

Recommendation: Provide specific training to evaluators around the submission requirements and evaluation criteria. The RFP should be clear about how requirements are linked to scoring, and guidance around these links should be provided to evaluators. The City could also consider adopting a scoring guidance manual or document that is derived directly from the RFP document to clarify boundaries between scores and relevant considerations based on the project's objectives.

4.4 Delegation of Authority reporting requirements

The Delegation of Authority frames the responsibilities that Council delegates to various parties in the context of a project. In the case of Stage 2, the Delegation of Authority was outlined in the March 8, 2017 report to the Finance and Economic Development Committee and Council (File Number ACS2017-TSD-OTP-0001). This Delegation of Authority, aligned with industry leading practice, Justice Bellamy's Inquiry around external contracts recommendations²³ and Associate Chief Justice Frank N. Marrocco's Report of the Collingwood Judicial Inquiry²⁴, delegated the procurement to City staff and effectively limited Council's involvement to approval of the Preferred Proponent. This approach is often used with large municipal procurements as it is seen to limit political interference within the procurement. The Delegation of Authority for Stage 2 also included some reporting requirements, such as "receive information on the Communications and Stakeholder Relations approach" but did not include specific reporting requirements for the procurement itself.

The Auditor General concluded that the project team did meet its reporting obligations as per the Delegation of Authority, and all Bid Evaluation Steering Committee members agreed that more Council involvement in the procurement process is not necessarily desirable as it could compromise or appear to compromise the fairness and integrity of the procurement. The

²³ Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005) recommendations 129-132

²⁴ Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry (2020) recommendations 161, 163 and 164

procurement process of a P3 is similar to a long negotiation. Therefore, sharing any specific details publicly, in particular those that are commercially sensitive, could result in giving one proponent an advantage, eroding interest from proponents as the risk that commercially sensitive information will be shared would be too high, or damaging the City's position in a negotiation. Therefore, reporting to Council during the procurement can be challenging to help ensure the reporting is meaningful, while still maintaining the integrity of the procurement process. Further involvement of Council could also allow for political interference into the process which could result in a fairness challenge. High-level reporting on the advancement of the project and the procurement is possible and has been done in comparable projects. As an example, the City of Edmonton project team for Valley Line West provided a biannual update to Council for informational purposes, describing the high-level progress of the project.²⁵ This was a departure from the reporting to Council that was carried out for the earlier Valley Line Southeast where the project team ran P3 training sessions for Council to educate them on the process and structure and provided more regular reporting. This level of interaction was not considered to be necessary for Valley Line West as the members of Council had not changed significantly between the projects and were, therefore, already quite familiar with the process being followed.

In alignment with leading practices, the City could consider including reporting requirements related to the procurement of future P3 projects. These reporting requirements could require an update on the project and procurement process, including:

- Current advancement of the process
- Major changes
- Schedule
- Budget
- Reminder of key considerations related to next steps (i.e., bid validity period)

It is recommended to help ensure that any report or update provided to Council during the procurement process be approved by the fairness commissioner to help ensure that no confidential information is disclosed to Council that could affect the procurement. As such, these reports should be high-level summaries of project progress, without going into specific outcomes or issues related to the procurement. For greater clarity, the content of these reports would be for informative purposes only, not to increase the Council's involvement in the procurement of P3 or other projects with special delegated authority, other than that which is delegated through the Procurement bylaw. The City could develop a standard reporting dashboard for councillors to refer to for all major projects with delegated authority.

Recommendation: Plan regular project updates as part of the Delegation of Authority to inform Council on the procurement and project progress.

²⁵ Based on our interview with City of Edmonton on 2020-12-14

4.5 Fairness

Stage 2 generally aligned with leading practices in procurement to help ensure fairness both in the process established and in its execution. The use of fairness commissioners is a leading practice in Canada and recommended for future projects. In addition, the City could consider formally identifying clear reporting lines to escalate internally any concerns related to the project or the procurement to help safeguard the confidentiality of the procurement process. The fairness commissioner could be leveraged as part of this process in being identified as one of the resources to receive and escalate any perceived wrongdoing regarding the process. We note that the City has indicated in the Auditor General's report that its Supply Procedure manual will be updated to include a reporting mechanism for such concerns, and the City has confirmed that this will be done following the conclusion of KPMG's mandate.

Recommendation: The City should include clear reporting lines to escalate issues internally with a designated person responsible for taking action as required.

4.6 Technical evaluation thresholds

P3 procurement leading practices involve separate technical and financial components in a proposal process, although the format and evaluation process vary by jurisdiction, infrastructure type, and specific project objectives.

In the case of Stage 2, the evaluation process started with a compliance review to validate whether the proposals were compliant with the RFP requirements. This was on a pass/fail basis. Proposals that did not contain any material deviation from the requirements in the RFP were advanced to the scored technical evaluation. As per the evaluation framework, any proposal that passed the technical compliance review was assumed to have a minimum technical evaluation score of 70%, although evaluators could assign lower scores. Furthermore, the RFP planned for a technical evaluation score threshold of 70% (based on Infrastructure Ontario's template at the time) for a proposal to move to the financial evaluation, although the Bid Evaluation Steering Committee could propose waiving this requirement to the Executive Steering Committee.

Through interviews with the different Bid Evaluation Steering Committee members, it became evident that the 70% threshold used was based only on the Infrastructure Ontario template, and not based on a project-based decision. Moreover, although the technical/financial weighting was 50/50, the scoring formula for the financial bid was heavily weighted to the proposal with the lowest price. This meant it was highly unlikely that a superior technical proposal could compensate for not having the lowest financial bid, skewing the final rankings towards the lowest price.

Also, as the Auditor General's report discussed, the hierarchy of the teams caused some confusion within the evaluation due to the existence of a Technical Conformance Review and a Technical Evaluation. It is typical to just have two steps in the process: a technical evaluation and a financial evaluation. Other jurisdictions and projects, including those part of our benchmarking process, tend to have a 'completeness check' only that includes items such as confirming the page limits have not been breached, and a high-level review that a complete response has been provided. This is the only step before the technical and financial evaluations

(which may or may not occur at separate times). The City may wish to simplify the process and combine the conformance review with the technical evaluation step. If the City wishes to keep the three-step process, then the roles and responsibilities of the different committees/teams need to be clearly explained in the training.

There are benefits and challenges with all evaluation structures, and it is important to select one that is the most appropriate for the project and for the owner's objectives. For future procurements, the City could consider different evaluation structures depending on the project objectives. Some items to consider when selecting an evaluation structure include:

- Type of infrastructure
- Affordability of the project
- Design's impact on users
- Contract model

For example, the City undertook a comprehensive value-engineering exercise on the project based on feedback that the affordability limit could not be met under the original project requirements. When a project has a significant affordability challenge, the lowest price approach can be advantageous.

If a project has a significant component that the City would be happy to pay more for, for instance, a more architecturally significant pedestrian bridge, then a 'best value / scored technical' approach may be more appropriate. Thus, the City should first define the objectives of the project, and from these objectives develop a procurement approach that best enables their attainment.

Recommendation: The City should analyze the optimal evaluation approach and technical/financial weightings for the project being procured to help ensure alignment between the evaluation framework and the overall project objectives. If the City maintains the compliance review and technical evaluation approach, the City should ensure that roles and responsibilities for each team are well understood.

4.7 Pre-procurement engagement with Council

One key lesson learned that emerged from the interviews with the members of the Bid Evaluation Steering Committee and other interviewees is that there could have been more engagement with Council prior to the initiation of the procurement. Indeed, although improved reporting would support the understanding of the progression of the procurement and any major changes, it is recommended that further training be provided to Council on P3s, the procurement process, any time or process constraints, and – most importantly – their role in the process. This training should be provided in advance of the procurement process, and should be repeated, particularly if the composition of a Council is modified during the procurement phase. For greater clarity, aligned with industry leading practices, Justice Bellamy's Inquiry around external contracts recommendations²⁶ and Associate Chief Justice Frank N. Marrocco's Report of the Collingwood

²⁶ Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005) recommendations 129-132

Judicial Inquiry²⁷, Council's involvement in the procurement should be minimal to limit political interference within the procurement, and the training does not aim to increase the Council's involvement.

The training would help manage expectations, increase understanding of any restrictions on information sharing, help ensure timely approvals when and if required²⁸, and help ensure Council is sufficiently informed to have comfort in the process, its role, and the capability of the administration. This process of educating Council is common on municipal P3s. For example, the City of Edmonton project team provided significant P3 training and information sessions with Council to educate them on the process, and to set expectations regarding their Valley Line Southeast LRT project. This training was not subsequently required during the procurement of the subsequent Valley Line West LRT since the composition of Council was vastly the same.²⁹

The training session could be general to all councillors or could be more targeted towards councillors showing interest in becoming "champions" of the procurement within Council. These champions would be able to answer any questions their peers might have regarding the procurement. Although the content of this training could be adapted to the specificities of the procurement, some examples of topics covered in this training include:

- Role of Council in the procurement process
- Rationale behind the selection of the contract model
- Specificities of the selected contract model
- Procurement process overview
- Safeguards to help ensure fairness, competition and accountability

Due to the length of the development and subsequent procurement processes of a P3 project of a scale similar to Stage 2, multiple training sessions or refreshers may be required.

Another recommendation that arose during the interviews with City staff is around the need to communicate the limitations of the project cost estimate used to lock in the project's funding, which is most frequently a very high-level estimate with many uncertainties. This will help Council better understand how and why a project's budget may vary. In addition, the City could consider requiring the project team to prepare a "budget variation mitigation plan" that would identify opportunities to reduce the project cost while evaluating the impact of implementing these measures in the event of an increase in project cost.

Recommendation: Provide P3 procurement training to Council, as required, to help ensure comprehension of the process and rationale behind decisions, including variation in budget and adjustments in scope.

²⁷ Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry (2020) recommendations 161, 163 and 164

²⁸ Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005) recommendations 226

²⁹ Based on our interview with City of Edmonton on 2020-12-14

Appendix

Appendix A – List of documents consulted

- Bid Evaluation Steering Committee meeting minutes
 - o 2018-08-16
 - o 2018-09-12
 - o 2018-09-24
 - o 2018-10-03
 - o 2018-10-23
 - o 2018-10-24
 - o 2018-10-26
 - o 2018-11-01
 - o 2018-11-02
- Bid Evaluation Steering Committee Written Direction to Technical Evaluation Team
- Document release index – Stage 2 Light-Rail Transit Trillium Line Extensions Procurement Process
- Executive Steering Committee meeting minutes
 - o 2018-10-26
 - o 2018-11-07
- Final Evaluation Results Presentation to the Executive Steering Committee
- Norton Rose Fulbright Memo Relating to a Financial Submission
- Norton Rose Fulbright Memo Technical Evaluation Bid Evaluation Steering Committee Discretion & Re-evaluation
- Norton Rose Fulbright Memo Technical Evaluation – Liability for Failing to Exercise Discretion to Allow Proposal to Continue
- OLRT Evaluation Training Deck
- Ottawa LRT Stage 2 Trillium Line Fairness Commissioner’s Final Report
- Report to Committee and Council (2015-07-08)– Stage 2 Light Rail Transit (LRT) Environmental Assessment and Functional Design Report
- Report to Committee and Council (2017-03-08)– Stage 2 Light Rail Transit Implementation – Project Definition and Procurement Plan
- Report to Committee and Council (2017-09-13)– Stage 2 Light Rail Transit Project and Procurement Update

- Report to Committee and Council (2019-03-06)– Contract award of Ottawa’s Stage 2 Light Rail Transit projects and related matters
- Stage 2 Light Rail Transit Backgrounder Market Sounding
- Trillium Line Consensus Presentation to the Executive Steering Committee
- Trillium Line Evaluation Framework
- Trillium Line Final Proponent Ranking Presentation to Bid Evaluation Steering Committee
- Trillium Line Financial Evaluations Consensus Summary Presentation to Bid Evaluation Steering Committee
- Trillium Line First Negotiations Proponent Letter #1 and letters to other Proponent teams
- Trillium Line First Negotiations Proponent Letter #1 Addendum
- Trillium Line First Negotiations Proponent Letter #2
- Trillium Line Request for Qualifications
- Trillium Line Request for Proposal (main body)
- Trillium Line Technical Conformance Consensus Report
- Trillium Line Technical Consensus Presentation to the Bid Evaluation Steering Committee
- Trillium Line Technical Consensus Presentation to the Bid Evaluation Steering Committee (second evaluation)

Appendix B - List of interviews

- 2020-09-30 – Emily Marshall Daigneault (Evaluation Manager)
- 2020-10-13 – Councillor Theresa Kavanaugh (Councillor Ward 7 Bay)
- 2020-10-16 – Councillor Glen Gower (Councillor Ward 6 Stittsville)
- 2020-10-26 – Simon Dupuis (Procurement and Funding Manager, City of Ottawa, Member of the Bid Evaluation Steering Committee)
- 2020-10-26 – Remo Bucci (Transaction Lead, Deloitte, Member of the Bid Evaluation Steering Committee)
- 2020-10-29 – Martin Masse (SME Legal, Norton Rose Fulbright, Member of the Bid Evaluation Steering Committee)
- 2020-10-30 – Geoffrey Gilbert (Norton Rose Fulbright, Member of the Bid Evaluation Steering Committee)
- 2020-12-02 – Broadway LRT Benchmarking Interview (David Hubner, Partnerships BC)
- 2020-12-10 – Councillor Shawn Menard (Councillor Ward 17 Capital), Miles Krauter & Jonathan McLeod
- 2020-12-14 – Edmonton LRT Benchmarking Interview (Brad Smid, City of Edmonton)
- 2020-12-22 – Infrastructure Ontario Benchmarking Interview (Chris Killer)
- 2021-01-12 – John Manconi (General Manager Transportation Services) and Michael Morgan (Director of Rail Construction)

Appendix C – Summary of project benchmarking

Project / Organization	Project value	Project owner	Selection/ training of evaluators	Document publishing	Governance/ delegation of authority	Technical evaluations
Edmonton Valley Line Southeast	\$1.8B	City of Edmonton	<ul style="list-style-type: none"> - Evaluators were selected mainly based on their expertise in the subject in which they would be evaluating the proposals. Teams were a combination of internal city resources and external advisors. - Training provided to discuss what should or shouldn't be considered in the evaluation process and was lead by the commercial advisor. 	<ul style="list-style-type: none"> - The City has shared its "Accountability, transparency and disclosure framework", which indicates which documents will be shared, when they will be shared and why they are or are not being shared. 	<ul style="list-style-type: none"> - For Phase 1 (southeast), a governance board was set up to minimize the involvement of Council. In Phase 2, the Council acts as the governance board as stakeholders wanted to use existing delegation of authority in the City's processes. - The project team gave bi-annual updates to the Council on the advancement of the project 	<ul style="list-style-type: none"> - Technical evaluation was done by expansive specialist teams for each major proposal sections that would then suggest a pass or fail decision to a "rollup" committee based on the alignment of the proposal with the RFP requirements.
Broadway LRT	\$2.8B	Infrastructure BC / TI corp	<ul style="list-style-type: none"> - Aims for a balance between P3 evaluation experience and technical expertise - Additional resources involved to train them for future procurements - Evaluations teams are comprised in part with people involved in developing the specifications. 	<ul style="list-style-type: none"> - RFQ is released publicly, whilst redacted versions of the RFP and of the project agreement are made available within 90 days of the contract's effective date. - The City has also recently made available the business cases and procurement options analyses 	<ul style="list-style-type: none"> - Project ownership is assured through TI corp, which manages the project. It's governance includes a board that reports back to the Ministry on a monthly basis. - The board is the entity in charge of approving the selection of the proponent at the end of the procurement. 	<ul style="list-style-type: none"> - Technical evaluations are done on a pass/fail basis based on the RFP requirements. The proponent considered as compliant with the RFP requirements, for both technical and financial requirements, and with the lowest NPV value in his financial offer will be retained as the preferred proponent.

Project / Organization	Project value	Project owner	Selection/ training of evaluators	Document publishing	Governance/ delegation of authority	Technical evaluations
Infrastructure Ontario	N/A	N/A	<ul style="list-style-type: none"> - IO aims at having evaluation teams comprised of internal resources rather than consultants. - They strike a balance between experienced evaluators and new evaluators, with the experienced evaluators orienting the new ones. - Technical evaluators are notably selected based on their depth of knowledge of the area they will be evaluating - Good evaluators are hard to find and to commit to the sometimes lengthy evaluation process. - Training of evaluators aims at clarifying how to look at the RFP requirements to use as criteria as well as other tips to help them orient their evaluation. 	<ul style="list-style-type: none"> - Documents are not published during the procurement process, with the exception of the RFQ which sometimes is released during the RFP. - Redacted Project Agreement is released after financial close. 	<ul style="list-style-type: none"> - Level of involvement with the City will depend greatly on the integration of the project with existing infrastructures or services. - Although solid engagement with the City is required for a successful project, the boundaries of their responsibilities and IO's responsibilities need to be clearly defined. - Engagement is mostly around the interfaces between the new project and the existing infrastructure/services rather than the procurement of the new project. 	<ul style="list-style-type: none"> - Evaluation process is usually comprised of a completeness review, followed by separate technical and financial evaluations.

Appendix D – Associate Chief Justice Frank N. Marrocco’s Report of the Collingwood Judicial Inquiry (2020), recommendations 161, 163 and 164

- 161** Council has a minimal role in procurements, and the separation between the role of Council and staff in procurements at the Town must be clear. Council's role is to set the budget and approve the overall procurement plan. In addition, Council must be satisfied that the procurement process is fair, honest, impartial, and equitable before it accepts staff's recommendation of the supplier who is to be awarded the contract with the Town.¹³⁵
- 163** Council members must remain at arm's length from staff and suppliers in the procurement process. Elected officials should be prohibited from involvement in the selection of the procurement process, evaluation of the bids, or selection of the successful supplier.¹⁴³
- 164** Council members should not receive or review any information or documents related to a particular procurement during the procurement process.¹⁴⁴

Appendix E – Justice Bellamy’s Report on the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry (2005) 129-132, 136-138 and 226

129. City Council should establish fair, transparent, and objective procurement processes. These processes should be structured so that they are and clearly appear to be completely free from political influence or interference.
130. Councillors should separate themselves from the procurement process. They should have no involvement whatsoever in specific procurements. They have the strongest ethical obligation to refrain from seeking to be involved in any way.
131. Members of Council should not see any documents or receive any information related to a particular procurement while the procurement process is ongoing.
132. Councillors who receive inquiries from vendors related to any specific procurement should tell them to communicate with one or more of the following three people, as is appropriate in the circumstances:
 - a. the contact person in the tender document, in accordance with the contact rules in place
 - b. the fairness commissioner
 - c. the person in charge of the complaints process, as set out in the tender documents
136. City procurement staff should receive adequate and ongoing training.
137. Training in operational matters for City procurement staff should include the basics of procurement policy as well as training focused on specific sectors.
138. Consistent, centrally mandated training in the ethical aspects of procurement should be mandatory for those involved in the procurement process at the City.

226. When debating procurement decisions, councillors should respect necessary timelines for decision making as set out in staff reports.

Appendix F – Glossary

Bid Evaluation Steering Committee

The Bid Evaluation Steering Committee was generally in charge of overseeing the bid evaluation process, reviewing the outcomes of the evaluation and endorsing the recommended Preferred Proponent for approval by the Executive Steering Committee. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Bid Evaluation Steering Committee.

Evaluation Manager

The Evaluation Manager was an individual responsible for managing the bid evaluations, including the coordination of the different review and evaluation teams, The management of any communication with the proponents using the channels included in the RFP process and the reporting to the Bid Evaluation Steering Committee. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Evaluation Manager.

Executive Steering Committee

The Executive Steering Committee was responsible for making decisions on matters of substance related to the RFP when raised by the Bid Evaluation Steering Committee, including non-conformance issues, and endorsement of the Preferred Proponent for approval by the City of Ottawa. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Executive Steering Committee.

Fairness Commissioner

The Fairness Commissioner is an independent third party retained by the Sponsor that is responsible for providing a report to the Sponsor that verifies that the RFP has been conducted in a fair, open and transparent manner. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Fairness Commissioner.

Financial Evaluation Team

The Financial Evaluation Team is accountable to the Bid Evaluation Steering Committee and is the group that is responsible for evaluating all Financial Submissions. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Financial Evaluation Team.

Technical Conformance Team

The Technical Conformance Team is accountable to the OLRT Bid Evaluation Steering Committee and performs the role of reviewing the Proponents' Technical Submission to ensure a general conformance to the RFP. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Technical Conformance Team.

Technical Evaluation Team

The Technical Evaluation Team is accountable to the OLRT Bid Evaluation Steering Committee and is responsible for evaluating all Technical Submissions. The Stage 2 Evaluation Framework further defines the roles and responsibilities of the Technical Evaluation Team.



[kpmg.ca](https://www.kpmg.ca)



This Report has been prepared by KPMG LLP (KPMG) for internal use by the City of Ottawa, pursuant to the terms of our Engagement Agreement with the Client dated 2020-09-17 (the Engagement Agreement). This Report is being provided to the Client on a confidential basis and may not be disclosed to any other person or entity without the express written consent of the Client and names of interviewed companies should remain confidential. KPMG neither warrants nor represents that the information contained in this Report is accurate, complete, sufficient or appropriate for use by any person or entity other than the Client or for any purpose other than set out in the Engagement Agreement. This Report may not be relied upon by any person or entity other than the Client, and KPMG hereby expressly disclaims any and all responsibility or liability to any person or entity other than the Client in connection with their use of this Report.

© 2021 KPMG LLP, a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.